



February 24, 2006

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## ENGROSSED

### SENATE BILL No. 345

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DIGEST OF SB 345 (Updated February 22, 2006 5:15 pm - DI 92)

**Citations Affected:** IC 6-1.1; IC 6-3; IC 21-3; noncode.

**Synopsis:** Taxation and government finance. Delays the start date for application of annual adjustments to assessed values until the 2007 assessment date (current law requires these adjustments to begin on the 2006 assessment date). Requires corporations, except Indiana insurance companies subject to taxation under Section 831 of the Internal Revenue Code and Indiana life insurance companies under certain circumstances to add back to state adjusted gross income deductions taken on the corporation's federal income tax return for the corporation's intangibles expenses and directly related intangible interest expenses. Requires the reversal of part of the payment delays in the schedule under which: (1) property tax replacement credit and homestead credit amounts are distributed to taxing units; and (2) distributions to state educational institutions are made. Increases the 2006 calendar year cap on state tuition support distributions by \$48,200,000. Increases the state fiscal year appropriation for state tuition support distributions for the state fiscal year beginning July 1, 2005, and ending June 30, 2006, by the greater of: (1) \$20,100,000; or (2) the amount needed to enable the department of education to make tuition support distributions without reducing the amount of any school corporation's distributions made before July 1, 2006. Provides an additional child welfare relief credit in 2006 against property tax liability imposed on a homestead. Makes an appropriation.

**Effective:** Upon passage; July 1, 2005 (retroactive); January 1, 2006 (retroactive); March 1, 2006 (retroactive); July 1, 2006; January 1, 2007.

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### Meeks, Simpson, Hume, Miller

(HOUSE SPONSORS — ESPICH, WELCH)

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January 10, 2006, read first time and referred to Senate Committee on Appropriations.  
January 26, 2006, amended, reported favorably — Do Pass.  
January 30, 2006, read second time, amended, ordered engrossed.  
January 31, 2006, engrossed.  
February 2, 2006, read third time, passed. Yeas 50, nays 0.

#### HOUSE ACTION

February 7, 2006, read first time and referred to Committee on Ways and Means.  
February 23, 2006, amended, reported — Do Pass.

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February 24, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 345

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 6-1.1-4-4.5, AS AMENDED BY P.L.228-2005,  
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 MARCH 1, 2006 (RETROACTIVE)]: Sec. 4.5. (a) The department of  
4 local government finance shall adopt rules establishing a system for  
5 annually adjusting the assessed value of real property to account for  
6 changes in value in those years since a general reassessment of  
7 property last took effect.  
8 (b) Subject to subsection (e), the system must be applied to adjust  
9 assessed values beginning with the ~~2006~~ **2007** assessment date and  
10 each year thereafter that is not a year in which a reassessment becomes  
11 effective.  
12 (c) The rules adopted under subsection (a) must include the  
13 following characteristics in the system:  
14 (1) Promote uniform and equal assessment of real property within  
15 and across classifications.  
16 (2) Require that assessing officials:  
17 (A) reevaluate the factors that affect value;

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- (B) express the interactions of those factors mathematically;  
 (C) use mass appraisal techniques to estimate updated property values within statistical measures of accuracy; and  
 (D) provide notice to taxpayers of an assessment increase that results from the application of annual adjustments.

(3) Prescribe procedures that permit the application of the adjustment percentages in an efficient manner by assessing officials.

(d) The department of local government finance must review and certify each annual adjustment determined under this section.

(e) In making the annual determination of the base rate to satisfy the requirement for an annual adjustment under subsection (a), the department of local government finance shall determine the base rate using the methodology reflected in Table 2-18 of Book 1, Chapter 2 of the department of local government finance's Real Property Assessment Guidelines (as in effect on January 1, 2005), except that the department shall adjust the methodology to use a six (6) year rolling average instead of a four (4) year rolling average.

SECTION 2. IC 6-1.1-21-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) There is established a property tax replacement fund board to consist of the commissioner of the department, the commissioner of the department of local government finance, the director of the budget agency, and two (2) ex officio nonvoting representatives of the general assembly of the state of Indiana. The speaker of the house of representatives shall appoint one (1) member of the house as one (1) of the ex officio nonvoting representatives, and the president pro tempore of the senate shall appoint one (1) senator as the other ex officio nonvoting representative, each to serve at the will of the appointing officer. The commissioner of the department shall be the chairman of the board, and the director of the budget agency shall be the secretary of the board.

(b) Except as provided in section 10.5 of this chapter, the schedule to be used in making distributions to county treasurers during the periods set forth in section 4(b) of this chapter is as follows:

January	0.00%
February	0.00%
March	16.70%
April	16.70%
May	<del>0.00%</del> <b>0.68%</b>
June	0.00%
July	<del>16.60%</del> <b>15.92%</b>
August	0.00%

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1	September	16.70%
2	October	16.70%
3	November	16.60%
4	December	0.00%

5 The board may authorize the department to distribute the estimated  
6 distributions to counties earlier than what is required under section 4(b)  
7 of this chapter.

8 (c) The board is also authorized to transfer funds from the property  
9 tax replacement fund for the purpose of providing financial aid to  
10 school corporations as provided in IC 21-3.

11 SECTION 3. IC 6-3-1-3.5, AS AMENDED BY P.L.246-2005,  
12 SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2006]: Sec. 3.5. When used in this article, the term "adjusted  
14 gross income" shall mean the following:

15 (a) In the case of all individuals, "adjusted gross income" (as  
16 defined in Section 62 of the Internal Revenue Code), modified as  
17 follows:

18 (1) Subtract income that is exempt from taxation under this article  
19 by the Constitution and statutes of the United States.

20 (2) Add an amount equal to any deduction or deductions allowed  
21 or allowable pursuant to Section 62 of the Internal Revenue Code  
22 for taxes based on or measured by income and levied at the state  
23 level by any state of the United States.

24 (3) Subtract one thousand dollars (\$1,000), or in the case of a  
25 joint return filed by a husband and wife, subtract for each spouse  
26 one thousand dollars (\$1,000).

27 (4) Subtract one thousand dollars (\$1,000) for:

28 (A) each of the exemptions provided by Section 151(c) of the  
29 Internal Revenue Code;

30 (B) each additional amount allowable under Section 63(f) of  
31 the Internal Revenue Code; and

32 (C) the spouse of the taxpayer if a separate return is made by  
33 the taxpayer and if the spouse, for the calendar year in which  
34 the taxable year of the taxpayer begins, has no gross income  
35 and is not the dependent of another taxpayer.

36 (5) Subtract:

37 (A) one thousand five hundred dollars (\$1,500) for each of the  
38 exemptions allowed under Section 151(c)(1)(B) of the Internal  
39 Revenue Code for taxable years beginning after December 31,  
40 1996; and

41 (B) five hundred dollars (\$500) for each additional amount  
42 allowable under Section 63(f)(1) of the Internal Revenue Code

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if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars (\$2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income

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taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been

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computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal

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Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

**(9) Add to the extent required by IC 6-3-2-20 the amount of intangible expenses (as defined in IC 6-3-2-20) and any directly related intangible interest expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes.**

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been

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computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal

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Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002,

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assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP FOUR amount and two thousand five hundred dollars (\$2,500).

SECTION 4. IC 6-3-2-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 20. (a) The following definitions apply throughout this section:**

(1) "Affiliated group" has the meaning provided in Section 1504 of the Internal Revenue Code, except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%).

(2) "Directly related intangible interest expenses" means interest expenses that are paid to, or accrued or incurred as a liability to, a recipient if:

(A) the amounts represent, in the hands of the recipient, income from making one (1) or more loans; and

(B) the funds loaned were originally received by the recipient from the payment of intangible expenses by any of the following:

(i) The taxpayer.

(ii) A member of the same affiliated group as the taxpayer.

(iii) A foreign corporation.

(3) "Foreign corporation" means a corporation that is organized under the laws of a country other than the United States and would be a member of the same affiliated group as the taxpayer if the corporation were organized under the laws of the United States.

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(4) "Intangible expenses" means the following amounts to the extent these amounts are allowed as deductions in determining taxable income under Section 63 of the Internal Revenue Code before the application of any net operating loss deduction and special deductions for the taxable year:

(A) Expenses, losses, and costs directly for, related to, or in connection with the acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property.

(B) Royalty, patent, technical, and copyright fees.

(C) Licensing fees.

(D) Other substantially similar expenses and costs.

(5) "Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights, trade secrets, and substantially similar types of intangible assets.

(6) "Interest expenses" means amounts that are allowed as deductions under Section 163 of the Internal Revenue Code in determining taxable income under Section 63 of the Internal Revenue Code before the application of any net operating loss deductions and special deductions for the taxable year.

(7) "Makes a disclosure" means a taxpayer provides the following information regarding a transaction with a member of the same affiliated group or a foreign corporation involving an intangible expense and any directly related intangible interest expense with the taxpayer's tax return on the forms prescribed by the department:

(A) The name of the recipient.

(B) The state or country of domicile of the recipient.

(C) The amount paid to the recipient.

(D) A copy of federal Form 851, Affiliation Schedule, as filed with the taxpayer's federal consolidated tax return.

(E) The information needed to determine the taxpayer's status under the exceptions listed in subsection (c).

(8) "Recipient" means:

(A) a member of the same affiliated group as the taxpayer; or

(B) a foreign corporation;

to which is paid an item of income that corresponds to an intangible expense or any directly related intangible interest expense.

(9) "Unrelated party" means a person that, with respect to the taxpayer, is not a member of the same affiliated group or a

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foreign corporation.

(b) Except as provided in subsection (c), in determining its adjusted gross income under IC 6-3-1-3.5(b), a corporation subject to the tax imposed by IC 6-3-2-1 shall add to its taxable income under Section 63 of the Internal Revenue Code:

(1) intangible expenses; and

(2) any directly related intangible interest expenses; paid, accrued, or incurred with one (1) or more members of the same affiliated group or with one (1) or more foreign corporations.

(c) The addition of intangible expenses or any directly related intangible interest expenses otherwise required in a taxable year under subsection (b) is not required if one (1) or more of the following apply to the taxable year:

(1) The taxpayer and the recipient are both included in the same consolidated tax return filed under IC 6-3-4-14 or in the same combined return filed under IC 6-3-2-2(q) for the taxable year.

(2) The taxpayer makes a disclosure and, at the request of the department, can establish by a preponderance of the evidence that:

(A) the item of income corresponding to the intangible expenses and any directly related intangible interest expenses was included within the recipient's income that is subject to tax in:

(i) a state or possession of the United States; or

(ii) a country other than the United States;

that is the recipient's commercial domicile and that imposes a net income tax, a franchise tax measured, in whole or in part, by net income, or a value added tax;

(B) the transaction giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient was made at a commercially reasonable rate and at terms comparable to an arm's length transaction; and

(C) the transactions giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient did not have Indiana tax avoidance as a principal purpose.

(3) The taxpayer makes a disclosure and, at the request of the department, can establish by a preponderance of the evidence that:

(A) the recipient regularly engages in transactions

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1 involving intangible property with one (1) or more  
 2 unrelated parties on terms substantially similar to that of  
 3 the subject transaction; and

4 (B) the transactions giving rise to the intangible expenses  
 5 and any directly related intangible interest expenses  
 6 between the taxpayer and the recipient did not have  
 7 Indiana tax avoidance as a principal purpose.

8 (4) The taxpayer makes a disclosure and, at the request of the  
 9 department, can establish by a preponderance of the evidence  
 10 that:

11 (A) the recipient paid, accrued, or incurred a liability to an  
 12 unrelated party during the taxable year for an equal or  
 13 greater amount that was directly for, related to, or in  
 14 connection with the same intangible property giving rise to  
 15 the intangible expenses; and

16 (B) the transactions giving rise to the intangible expenses  
 17 and any directly related intangible interest expenses  
 18 between the taxpayer and the recipient did not have  
 19 Indiana tax avoidance as a principal purpose.

20 (5) The taxpayer makes a disclosure and, at the request of the  
 21 department, can establish by a preponderance of the evidence  
 22 that:

23 (A) the recipient is engaged in:

24 (i) substantial business activities from the acquisition,  
 25 use, licensing, maintenance, management, ownership,  
 26 sale, exchange, or any other disposition of intangible  
 27 property; or

28 (ii) other substantial business activities separate and  
 29 apart from the business activities described in item (i);  
 30 as evidenced by the maintenance of a permanent office  
 31 space and adequate full-time experienced employees;

32 (B) the transaction giving rise to the intangible expenses  
 33 and any directly related intangible interest expenses  
 34 between the taxpayer and the recipient was made at a  
 35 commercially reasonable rate and at terms comparable to  
 36 an arm's length transaction; and

37 (C) the transactions giving rise to the intangible expenses  
 38 and any directly related intangible interest expenses  
 39 between the taxpayer and the recipient did not have  
 40 Indiana tax avoidance as a principal purpose.

41 (6) The taxpayer and the department agree, in writing, to the  
 42 application or use of an alternative method of allocation or

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1 appointment under section 2(l) or 2(m) of this chapter.

2 (7) Upon request by the taxpayer, the department determines  
3 that the adjustment otherwise required by this section is  
4 unreasonable.

5 (d) If the recipient is a foreign corporation, intangible expenses  
6 or directly related intangible interest expenses shall be considered  
7 to be at a commercially reasonable rate and at terms comparable  
8 to an arm's length transaction for purposes of subsection (c) if:

9 (1) the recipient is organized under laws of a country that has  
10 entered into a comprehensive income tax treaty with the  
11 United States; and

12 (2) the intangible expenses or directly related intangible  
13 interest expenses meet the arm's length standards of United  
14 States Treasury Regulation 1.482-1(b).

15 (e) If intangible expenses or directly related intangible expenses  
16 are determined not to be at a commercially reasonable rate or at  
17 terms comparable to an arm's length transaction for purposes of  
18 subsection (c)(2) or (c)(5), the adjustment required by subsection  
19 (b) shall be made only to the extent necessary to cause the  
20 intangible expenses or directly related intangible interest expenses  
21 to be at a commercially reasonable rate and at terms comparable  
22 to an arm's length transaction.

23 SECTION 5. IC 21-3-1.7-9, AS AMENDED BY P.L.246-2005,  
24 SECTION 200, IS AMENDED TO READ AS FOLLOWS  
25 [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 9. (a)  
26 Subject to the amount appropriated by the general assembly for tuition  
27 support, the amount that a school corporation is entitled to receive in  
28 tuition support for a year is the amount determined in section 8.2 of this  
29 chapter.

30 (b) If the total amount to be distributed as tuition support under this  
31 chapter, in 2005 for enrollment adjustment grants under section 9.5 of  
32 this chapter (before its repeal), for academic honors diploma awards  
33 under section 9.8 of this chapter, in 2005 for supplemental remediation  
34 grants under section 9.9 of this chapter (before its repeal), for  
35 primetime distributions under IC 21-1-30, for special education grants  
36 under IC 21-3-2.1, and for vocational education grants under  
37 IC 21-3-12 for a particular year, exceeds:

38 (1) three billion seven hundred fifty-nine million three hundred  
39 thousand dollars (\$3,759,300,000) in 2005;

40 (2) the greater of:

41 (A) three billion ~~seven~~ **eight** hundred ~~fifty-four~~ **two** million  
42 ~~seven~~ **nine** hundred thousand dollars (~~\$3,754,700,000~~)

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1           **(\$3,802,900,000) in 2006; or**

2           **(B) the amount necessary to enable the department of**  
 3           **education to make tuition support distributions in 2006 in**  
 4           **accordance with IC 21-1-30 and this article without**  
 5           **requiring a reduction in the amount distributed for tuition**  
 6           **support under this section; and**

7           (3) three billion seven hundred forty-seven million two hundred  
 8           thousand dollars (\$3,747,200,000) in 2007;

9           the amount to be distributed for tuition support under this chapter to  
 10          each school corporation during each of the last six (6) months of the  
 11          year shall be proportionately reduced so that the total reductions equal  
 12          the amount of the excess. The amount of the reduction for a particular  
 13          school corporation is equal to the total amount of the excess multiplied  
 14          by a fraction. The numerator of the fraction is the amount of the  
 15          distribution for tuition support that the school corporation would have  
 16          received if a reduction were not made under this section. The  
 17          denominator of the fraction is the total amount that would be  
 18          distributed for tuition support to all school corporations if a reduction  
 19          were not made under this section. **However, the department of**  
 20          **education shall distribute the full amount of tuition support to**  
 21          **school corporations in the second six (6) months of 2006 in**  
 22          **accordance with IC 21-1-30 and this article without a reduction**  
 23          **under this section.**

24          SECTION 6. [EFFECTIVE JULY 1, 2006] (a) **The purpose of this**  
 25          **SECTION is to reduce accrued payment delay balances that were**  
 26          **created because of the amendment to IC 6-1.1-21-10 made by**  
 27          **P.L.192-2002(ss), SECTION 43, to move the May distribution to**  
 28          **July beginning with the May 2003 distribution and a continuation**  
 29          **of the practice of delayed payments in subsequent years.**

30          (b) **There is appropriated to the property tax replacement board**  
 31          **fifteen million dollars (\$15,000,000) from the state general fund**  
 32          **and the property tax replacement fund, in the percentage**  
 33          **determined by the budget agency, for its use to distribute the**  
 34          **amount of the increase in the May 2007 distribution required**  
 35          **under IC 6-1.1-21-10, as amended by this act, beginning July 1,**  
 36          **2006, and ending June 30, 2007.**

37          (c) **A distribution described in subsection (b) raises the**  
 38          **maximum permissible distribution for property tax replacement**  
 39          **credits and homestead credits that may be made in the state fiscal**  
 40          **year beginning July 1, 2006, and ending June 30, 2007, by the**  
 41          **amount of the distribution.**

42          (d) **A distribution described in subsection (b) shall be treated as**

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a distribution under IC 6-1.1-21 for the calendar year in which the distribution is made. An early additional distribution described in subsection (b) reduces the amount of the distribution that would otherwise have been made in July 2007 under IC 6-1.1-21-10, as effective before the amendment made by this act, by the amount of the additional distribution.

SECTION 7. [EFFECTIVE JULY 1, 2006] (a) The purpose of this SECTION is to reduce accrued payment delay balances to state educational institutions and IHETS that were created because of the distribution of eleven-twelfths (11/12) of the budgeted amount in the state fiscal year ending June 30, 2002, and a continuation of the practice of delayed payments in subsequent state fiscal years through the state fiscal year ending June 30, 2005.

(b) The following definitions apply throughout this SECTION:

(1) "IHETS" refers to the Indiana Higher Education Telecommunications System.

(2) "State educational institution" has the meaning set forth in IC 20-12-0.5-1.

(c) There is appropriated to the budget agency fifteen million dollars (\$15,000,000) from the state general fund for its use for general repair and rehabilitation or repair and rehabilitation of dormitories or other student housing of state educational institutions, beginning July 1, 2006, and ending June 30, 2007, as follows:

INDIANA UNIVERSITY - TOTAL SYSTEM	\$5,875,147
PURDUE UNIVERSITY - TOTAL SYSTEM	4,048,133
INDIANA STATE UNIVERSITY	899,880
UNIVERSITY OF SOUTHERN INDIANA	459,626
BALL STATE UNIVERSITY	1,528,899
VINCENNES UNIVERSITY	446,262
IVY TECH COMMUNITY COLLEGE	
OF INDIANA	<u>1,742,053</u>
	\$15,000,000

(d) Notwithstanding P.L.246-2005, SECTION 32, after review by the budget committee, the budget agency shall distribute to a state educational institution after June 30, 2006, and before July 1, 2007, the amount appropriated to the state educational institution under subsection (c). The distributions under subsection (c):

(1) may be made in one (1) or more installments after June 30, 2006, and before July 1, 2007, on the schedule determined by the budget agency after review of the schedule by the budget committee; and

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(2) shall be separately allotted.

(e) An appropriation under subsection (c) is in addition to the appropriations for general repair and rehabilitation made in P.L.246-2005, SECTION 32, or any other law. Notwithstanding any other law, an appropriation under subsection (c) does not revert to the general fund under IC 4-13-2-19.

(f) The amount appropriated under subsection (c), when distributed to a state educational institution, shall be treated as reducing any claim that the total system of the state educational institution has to one-twelfth (1/12) of the amount budgeted for the state educational institution in all line items in HEA 1001-2003, SECTION 9, for the state fiscal year ending June 30, 2005. Subject to subsection (g), the amount of the claim reduction for each institution is equal to the amount distributed to the state educational institution. The amount of the claim reduction for the entire system and the amount apportioned for each institution individually shall be computed by the budget agency. The budget agency makes the final determination.

(g) An amount appropriated under subsection (c), when distributed to Indiana University, shall be treated as reducing any claim that IHETS has to one-twelfth (1/12) of the amount budgeted for the IHETS in all line items in HEA 1001-2003, SECTION 9, for the state fiscal year ending June 30, 2005. The amount of the claim reduction is a part of the amount distributed to Indiana University-Total System apportioned as determined by the budget agency.

SECTION 8. [EFFECTIVE JULY 1, 2005 (RETROACTIVE)] (a) There is appropriated to the department of education the greater of the following from the state general fund for the purposes of making the distributions for tuition support described in IC 21-3-1.7-9, as amended by this act, beginning July 1, 2005, and ending June 30, 2006:

(1) Twenty million one hundred thousand dollars (\$20,100,000).

(2) An amount sufficient to enable the department of education to make tuition support distributions after December 31, 2005, and before July 1, 2006, in accordance with IC 21-1-30 and IC 21-3 without requiring a reduction in tuition support distributions to school corporations in the first six (6) months of 2006.

The amount appropriated under this SECTION is in addition to the amount appropriated by P.L.246-2005, SECTION 9 to the

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department of education for distribution for tuition support but is subject to the terms and conditions specified in P.L.246-2005, SECTION 9 for the distribution for tuition support.

(b) The deficiency appropriation made by this SECTION is not subject to transfer to any other fund or subject to transfer, assignment, or reassignment for any other use or purpose by:

(1) the state board of finance, notwithstanding IC 4-9.1-1-7, IC 4-13-2-23, or any other law; or

(2) the budget agency, notwithstanding IC 4-12-1-12 or any other law.

SECTION 9. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 6-1.1-1, IC 6-1.1-20.9, and IC 6-1.1-21 apply throughout this SECTION.

(b) A taxpayer that is eligible for a homestead credit under IC 6-1.1-20.9 in 2006 is eligible for an additional child welfare relief credit under this SECTION in 2006. The amount of the additional child welfare relief credit to which the taxpayer is entitled equals the product of:

(1) twelve percent (12%); multiplied by

(2) the amount of the individual's property tax liability, as that term is defined in IC 6-1.1-21-5, that is:

(A) attributable to the homestead during the particular calendar year; and

(B) determined after the application of the property tax replacement credit under IC 6-1.1-21.

(c) A county auditor:

(1) may apply the entire amount of the additional child welfare relief credit granted by this SECTION equally to all installments of property taxes first due from the taxpayer in 2006; or

(2) if application of the credit to the first installment would delay the delivery of tax statements more than thirty (30) days after the date that the tax statements would otherwise be mailed or transmitted, may issue revised tax statements and apply the entire credit to the property tax due in a later installment.

IC 6-1.1-22.5-6 does not apply if the county auditor elects to proceed under subdivision (2). The department of local government finance may prescribe procedures to apply the additional child welfare relief credit to tax statements. A county auditor shall comply with the procedures prescribed under this subsection.

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(d) The property tax replacement fund board shall provide for an additional distribution to taxing units from the property tax replacement fund to replace revenue lost to a county as the result of the granting of additional child welfare relief credits under this SECTION. The distribution shall be made on the schedule determined by the property tax replacement fund board. To the extent possible, the property tax replacement fund board shall make distributions under this subsection at the same time distributions of homestead credits and other property tax replacement credits are made. A distribution under this subsection is not subject to any law limiting the maximum amount that may be distributed under IC 6-1.1-21. The amount distributed under this subsection is not included in the amount used to determine the minimum amount that must be distributed or maximum distribution that may not be exceeded under IC 6-1.1-21.

(e) This subsection applies to a taxpayer in an allocation area that would be eligible for an additional credit under any of the following:

- (1) IC 8-22-3.5-10.
- (2) IC 36-7-14-39.
- (3) IC 36-7-14-39.5.
- (4) IC 36-7-15.1-26.5.
- (5) IC 36-7-15.1-35.
- (6) IC 36-7-15.1-56.
- (7) IC 36-7-30-25.
- (8) IC 36-7-30-27.
- (9) IC 36-7-30.5-30.
- (10) IC 36-7-30.5-32.
- (11) IC 36-7-32-18.

As used in this subsection, "designating body" refers to the governing body permitted to reduce an additional credit otherwise granted in an allocation area to which a provision described in subdivisions (1) through (8) applies. Subject to this subsection, a taxpayer that is entitled to an additional credit on the taxpayer's homestead in an allocation area is entitled to a supplemental credit under this subsection. The amount of the supplemental credit is equal to the amount necessary to give the taxpayer the same total credit that the taxpayer would have received if the taxpayer's tangible property were not located in an allocation area. The supplemental credit reduces the amount of proceeds allocated to the district where the allocation area is located and paid into an allocation fund. A designating body may reduce the amount of the

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supplemental credits granted in an allocation area in the same manner and for the same reasons that the designating body is permitted to reduce an additional credit in the allocation area. The department of local government finance may prescribe procedures to use to apply a supplemental credit to tangible property in an allocation area. A county auditor shall comply with the procedures prescribed under this subsection.

(f) This SECTION expires January 1, 2007.

SECTION 10. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "taxable year" has the meaning set forth in IC 6-3-1-16.

(b) IC 6-3-2-20, as added by this act, applies only to taxable years beginning after June 30, 2006.

(c) The addition of IC 6-3-2-20, as added by this act, does not affect the legitimacy or illegitimacy of deductions claimed by taxpayers for taxable years beginning before July 1, 2006. Any determination of:

(1) the department of state revenue; or

(2) a court reviewing a department of state revenue determination;

of the legitimacy or illegitimacy of deductions claimed by taxpayers for taxable years beginning before July 1, 2006, shall be made without regard to IC 6-3-2-20, as added by this act.

(d) The department of state revenue may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to implement IC 6-3-2-20, as added by this act, and IC 6-3-1-3.5, as amended by this act. A temporary rule adopted under this SECTION expires on the earliest of the following:

(1) The date a rule is adopted by the department of state revenue under IC 4-22-2 that repeals, amends, or supersedes the temporary rule.

(2) The date another temporary rule is adopted under this SECTION that repeals, amends, or supersedes a previously adopted temporary rule.

(3) The date specified in the temporary rule.

(4) July 1, 2007.

SECTION 11. An emergency is declared for this act.

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SENATE MOTION

Madam President: I move that Senators Simpson and Hume be added as coauthors of Senate Bill 345.

MEEKS

SENATE MOTION

Madam President: I move that Senator Miller be added as coauthor of Senate Bill 345.

MEEKS

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 345, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 3, delete "16.70% 19.60%" and insert "16.70%".

Page 2, line 4, strike "0.00%" and insert "**6.20%**".

Page 2, line 6, delete "13.70%" and insert "**10.40%**".

Page 2, delete lines 18 through 19.

Page 2, line 27, delete "sixty-five" and insert "**one hundred thirty-six**".

Page 2, line 27, after "million" insert "**five hundred thousand**".

Page 2, line 27, delete "(\$65,000,000)" and insert "**(\$136,500,000)**".

Page 2, line 30, delete "April" and insert "**May**".

Page 2, delete lines 33 through 42.

Page 3, delete lines 1 through 7.

Page 3, line 8, delete "(d)" and insert "**(c)**".

Page 3, line 8, delete "or (c)".

Page 3, line 11, delete "2007," and insert "**2006,**".

Page 3, line 11, delete "2008," and insert "**2007,**".

Page 3, line 13, delete "(e)" and insert "**(d)**".

Page 3, line 13, delete "or (c)".

Page 3, line 15, delete ":".

Page 3, line 16, delete "(1)".

Page 3, run in lines 15 through 16.

Page 3, line 20, delete "; and" and insert ".".

Page 3, delete lines 21 through 42.

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Page 4, delete lines 1 through 35.

Page 4, line 37, delete ":".

Page 4, line 38, delete "(1)".

Page 4, run in lines 37 through 38.

Page 5, line 2, delete "; and" and insert ".".

Page 5, delete lines 3 through 4.

Page 5, line 10, delete "twenty" and insert **"forty"**.

Page 5, line 11, delete "(\$20,000,000)" and insert **"(\$40,000,000)"**.

Page 5, line 12, after "rehabilitation" insert **"or repair and rehabilitation of dormitories or other student housing"**.

Page 5, delete lines 14 through 22, begin a new line block indented and insert:

<b>"INDIANA UNIVERSITY - TOTAL SYSTEM</b>	<b>\$15,667,060</b>
<b>PURDUE UNIVERSITY - TOTAL SYSTEM</b>	<b>10,795,022</b>
<b>INDIANA STATE UNIVERSITY</b>	<b>2,399,680</b>
<b>UNIVERSITY OF SOUTHERN INDIANA</b>	<b>1,225,670</b>
<b>BALL STATE UNIVERSITY</b>	<b>4,077,062</b>
<b>VINCENNES UNIVERSITY</b>	<b>1, 190,030</b>
<b>IVY TECH COMMUNITY COLLEGE</b>	
<b>OF INDIANA</b>	<b><u>4,645,476</u></b>
	<b>\$40,000,000".</b>

Page 5, line 30, delete ";" and insert **"after review of the schedule by the budget committee;"**.

Page 5, delete lines 32 through 42.

Page 6, delete lines 1 through 8.

Page 6, line 9, delete "(f)" and insert **"(e)"**.

Page 6, line 9, delete "or (e)".

Page 6, line 12, delete "or (e)".

Page 6, line 14, delete "(g)" and insert **"(f)"**.

Page 6, line 14, delete "(c) or (e)," and insert **"(c),"**.

Page 6, line 20, delete "(h)," and insert **"(g),"**.

Page 6, line 26, delete "(h)" and insert **"(g)"**.

Page 6, line 26, delete "(c) or (e)," and insert **"(c),"**.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 345 as introduced.)

MEEKS, Chairperson

Committee Vote: Yeas 9, Nays 0.

ES 345—LS 6910/DI 51+



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## SENATE MOTION

Madam President: I move that Senate Bill 345 be amended to read as follows:

Page 2, line 3, reset in roman "16.70%".

Page 2, line 3, delete "19.60%".

(Reference is to SB 345 as printed January 27, 2006.)

MEEKS

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 COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 345, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-4-4.5, AS AMENDED BY P.L.228-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2006 (RETROACTIVE)]: Sec. 4.5. (a) The department of local government finance shall adopt rules establishing a system for annually adjusting the assessed value of real property to account for changes in value in those years since a general reassessment of property last took effect.

(b) Subject to subsection (e), the system must be applied to adjust assessed values beginning with the ~~2006~~ **2007** assessment date and each year thereafter that is not a year in which a reassessment becomes effective.

(c) The rules adopted under subsection (a) must include the following characteristics in the system:

- (1) Promote uniform and equal assessment of real property within and across classifications.
- (2) Require that assessing officials:
  - (A) reevaluate the factors that affect value;
  - (B) express the interactions of those factors mathematically;
  - (C) use mass appraisal techniques to estimate updated property values within statistical measures of accuracy; and
  - (D) provide notice to taxpayers of an assessment increase that results from the application of annual adjustments.
- (3) Prescribe procedures that permit the application of the

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adjustment percentages in an efficient manner by assessing officials.

(d) The department of local government finance must review and certify each annual adjustment determined under this section.

(e) In making the annual determination of the base rate to satisfy the requirement for an annual adjustment under subsection (a), the department of local government finance shall determine the base rate using the methodology reflected in Table 2-18 of Book 1, Chapter 2 of the department of local government finance's Real Property Assessment Guidelines (as in effect on January 1, 2005), except that the department shall adjust the methodology to use a six (6) year rolling average instead of a four (4) year rolling average."

Page 2, line 4, delete "6.20%" and insert "**0.68%**".

Page 2, line 6, delete "10.40%" and insert "**15.92%**".

Page 2, between lines 17 and 18, begin a new paragraph and insert:  
"SECTION 3. IC 6-3-1-3.5, AS AMENDED BY P.L.246-2005, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
- (3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).
- (4) Subtract one thousand dollars (\$1,000) for:
  - (A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;
  - (B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and
  - (C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.
- (5) Subtract:
  - (A) one thousand five hundred dollars (\$1,500) for each of the

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exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and

(B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars (\$2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

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(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

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(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service

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in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

**(9) Add to the extent required by IC 6-3-2-20 the amount of intangible expenses (as defined in IC 6-3-2-20) and any directly related intangible interest expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes.**

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

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(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service

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in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as

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a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP FOUR amount and two thousand five hundred dollars (\$2,500).

SECTION 4. IC 6-3-2-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 20. (a) The following definitions apply throughout this section:**

**(1) "Affiliated group" has the meaning provided in Section 1504 of the Internal Revenue Code, except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%).**

**(2) "Directly related intangible interest expenses" means interest expenses that are paid to, or accrued or incurred as a liability to, a recipient if:**

**(A) the amounts represent, in the hands of the recipient, income from making one (1) or more loans; and**

**(B) the funds loaned were originally received by the recipient from the payment of intangible expenses by any of the following:**

**(i) The taxpayer.**

**(ii) A member of the same affiliated group as the taxpayer.**

**(iii) A foreign corporation.**

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(3) "Foreign corporation" means a corporation that is organized under the laws of a country other than the United States and would be a member of the same affiliated group as the taxpayer if the corporation were organized under the laws of the United States.

(4) "Intangible expenses" means the following amounts to the extent these amounts are allowed as deductions in determining taxable income under Section 63 of the Internal Revenue Code before the application of any net operating loss deduction and special deductions for the taxable year:

(A) Expenses, losses, and costs directly for, related to, or in connection with the acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property.

(B) Royalty, patent, technical, and copyright fees.

(C) Licensing fees.

(D) Other substantially similar expenses and costs.

(5) "Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights, trade secrets, and substantially similar types of intangible assets.

(6) "Interest expenses" means amounts that are allowed as deductions under Section 163 of the Internal Revenue Code in determining taxable income under Section 63 of the Internal Revenue Code before the application of any net operating loss deductions and special deductions for the taxable year.

(7) "Makes a disclosure" means a taxpayer provides the following information regarding a transaction with a member of the same affiliated group or a foreign corporation involving an intangible expense and any directly related intangible interest expense with the taxpayer's tax return on the forms prescribed by the department:

(A) The name of the recipient.

(B) The state or country of domicile of the recipient.

(C) The amount paid to the recipient.

(D) A copy of federal Form 851, Affiliation Schedule, as filed with the taxpayer's federal consolidated tax return.

(E) The information needed to determine the taxpayer's status under the exceptions listed in subsection (c).

(8) "Recipient" means:

(A) a member of the same affiliated group as the taxpayer;  
or

(B) a foreign corporation;

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to which is paid an item of income that corresponds to an intangible expense or any directly related intangible interest expense.

(9) "Unrelated party" means a person that, with respect to the taxpayer, is not a member of the same affiliated group or a foreign corporation.

(b) Except as provided in subsection (c), in determining its adjusted gross income under IC 6-3-1-3.5(b), a corporation subject to the tax imposed by IC 6-3-2-1 shall add to its taxable income under Section 63 of the Internal Revenue Code:

(1) intangible expenses; and

(2) any directly related intangible interest expenses;

paid, accrued, or incurred with one (1) or more members of the same affiliated group or with one (1) or more foreign corporations.

(c) The addition of intangible expenses or any directly related intangible interest expenses otherwise required in a taxable year under subsection (b) is not required if one (1) or more of the following apply to the taxable year:

(1) The taxpayer and the recipient are both included in the same consolidated tax return filed under IC 6-3-4-14 or in the same combined return filed under IC 6-3-2-2(q) for the taxable year.

(2) The taxpayer makes a disclosure and, at the request of the department, can establish by a preponderance of the evidence that:

(A) the item of income corresponding to the intangible expenses and any directly related intangible interest expenses was included within the recipient's income that is subject to tax in:

(i) a state or possession of the United States; or

(ii) a country other than the United States;

that is the recipient's commercial domicile and that imposes a net income tax, a franchise tax measured, in whole or in part, by net income, or a value added tax;

(B) the transaction giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient was made at a commercially reasonable rate and at terms comparable to an arm's length transaction; and

(C) the transactions giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient did not have

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**Indiana tax avoidance as a principal purpose.**

**(3) The taxpayer makes a disclosure and, at the request of the department, can establish by a preponderance of the evidence that:**

**(A) the recipient regularly engages in transactions involving intangible property with one (1) or more unrelated parties on terms substantially similar to that of the subject transaction; and**

**(B) the transactions giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient did not have Indiana tax avoidance as a principal purpose.**

**(4) The taxpayer makes a disclosure and, at the request of the department, can establish by a preponderance of the evidence that:**

**(A) the recipient paid, accrued, or incurred a liability to an unrelated party during the taxable year for an equal or greater amount that was directly for, related to, or in connection with the same intangible property giving rise to the intangible expenses; and**

**(B) the transactions giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient did not have Indiana tax avoidance as a principal purpose.**

**(5) The taxpayer makes a disclosure and, at the request of the department, can establish by a preponderance of the evidence that:**

**(A) the recipient is engaged in:**

**(i) substantial business activities from the acquisition, use, licensing, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property; or**

**(ii) other substantial business activities separate and apart from the business activities described in item (i); as evidenced by the maintenance of a permanent office space and adequate full-time experienced employees;**

**(B) the transaction giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient was made at a commercially reasonable rate and at terms comparable to an arm's length transaction; and**

**(C) the transactions giving rise to the intangible expenses**

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and any directly related intangible interest expenses between the taxpayer and the recipient did not have Indiana tax avoidance as a principal purpose.

(6) The taxpayer and the department agree, in writing, to the application or use of an alternative method of allocation or appointment under section 2(l) or 2(m) of this chapter.

(7) Upon request by the taxpayer, the department determines that the adjustment otherwise required by this section is unreasonable.

(d) If the recipient is a foreign corporation, intangible expenses or directly related intangible interest expenses shall be considered to be at a commercially reasonable rate and at terms comparable to an arm's length transaction for purposes of subsection (c) if:

(1) the recipient is organized under laws of a country that has entered into a comprehensive income tax treaty with the United States; and

(2) the intangible expenses or directly related intangible interest expenses meet the arm's length standards of United States Treasury Regulation 1.482-1(b).

(e) If intangible expenses or directly related intangible expenses are determined not to be at a commercially reasonable rate or at terms comparable to an arm's length transaction for purposes of subsection (c)(2) or (c)(5), the adjustment required by subsection (b) shall be made only to the extent necessary to cause the intangible expenses or directly related intangible interest expenses to be at a commercially reasonable rate and at terms comparable to an arm's length transaction.

SECTION 5. IC 21-3-1.7-9, AS AMENDED BY P.L.246-2005, SECTION 200, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 9. (a) Subject to the amount appropriated by the general assembly for tuition support, the amount that a school corporation is entitled to receive in tuition support for a year is the amount determined in section 8.2 of this chapter.

(b) If the total amount to be distributed as tuition support under this chapter, in 2005 for enrollment adjustment grants under section 9.5 of this chapter (before its repeal), for academic honors diploma awards under section 9.8 of this chapter, in 2005 for supplemental remediation grants under section 9.9 of this chapter (before its repeal), for primetime distributions under IC 21-1-30, for special education grants under IC 21-3-2.1, and for vocational education grants under IC 21-3-12 for a particular year, exceeds:

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(1) three billion seven hundred fifty-nine million three hundred thousand dollars (\$3,759,300,000) in 2005;

(2) **the greater of:**

(A) three billion ~~seven~~ **eight** hundred ~~fifty-four~~ **two** million ~~seven~~ **nine** hundred thousand dollars (~~\$3,754,700,000~~) (**\$3,802,900,000**) in 2006; or

(B) **the amount necessary to enable the department of education to make tuition support distributions in 2006 in accordance with IC 21-1-30 and this article without requiring a reduction in the amount distributed for tuition support under this section;** and

(3) three billion seven hundred forty-seven million two hundred thousand dollars (\$3,747,200,000) in 2007;

the amount to be distributed for tuition support under this chapter to each school corporation during each of the last six (6) months of the year shall be proportionately reduced so that the total reductions equal the amount of the excess. The amount of the reduction for a particular school corporation is equal to the total amount of the excess multiplied by a fraction. The numerator of the fraction is the amount of the distribution for tuition support that the school corporation would have received if a reduction were not made under this section. The denominator of the fraction is the total amount that would be distributed for tuition support to all school corporations if a reduction were not made under this section. **However, the department of education shall distribute the full amount of tuition support to school corporations in the second six (6) months of 2006 in accordance with IC 21-1-30 and this article without a reduction under this section."**

Page 2, line 25, delete "one hundred thirty-six" and insert "**fifteen**".

Page 2, line 25, delete "five hundred thousand".

Page 2, line 26, delete "(\$136,500,000)" and insert "**(\$15,000,000)**".

Page 3, line 13, delete "forty" and insert "**fifteen**".

Page 3, line 14, delete "(\$40,000,000)" and insert "**(\$15,000,000)**".

Page 3, line 19, delete "\$15,667,060" and insert "**\$5,875,147**".

Page 3, line 20, delete "10,795,022" and insert "**4,048,133**".

Page 3, line 21, delete "2,399,680" and insert "**899,880**".

Page 3, line 22, delete "1,225,670" and insert "**459,626**".

Page 3, line 23, delete "4,077,062" and insert "**1,528,899**".

Page 3, line 24, delete "1, 190,030" and insert "**446,262**".

Page 3, line 26, delete "4,645,476" and insert "**1,742,053**".

Page 3, line 27, delete "\$40,000,000" and insert "**\$15,000,000**".

Page 4, after line 20, begin a new paragraph and insert:

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**"SECTION 8. [EFFECTIVE JULY 1, 2005 (RETROACTIVE)] (a) There is appropriated to the department of education the greater of the following from the state general fund for the purposes of making the distributions for tuition support described in IC 21-3-1.7-9, as amended by this act, beginning July 1, 2005, and ending June 30, 2006:**

- (1) Twenty million one hundred thousand dollars (\$20,100,000).**
- (2) An amount sufficient to enable the department of education to make tuition support distributions after December 31, 2005, and before July 1, 2006, in accordance with IC 21-1-30 and IC 21-3 without requiring a reduction in tuition support distributions to school corporations in the first six (6) months of 2006.**

**The amount appropriated under this SECTION is in addition to the amount appropriated by P.L.246-2005, SECTION 9 to the department of education for distribution for tuition support but is subject to the terms and conditions specified in P.L.246-2005, SECTION 9 for the distribution for tuition support.**

**(b) The deficiency appropriation made by this SECTION is not subject to transfer to any other fund or subject to transfer, assignment, or reassignment for any other use or purpose by:**

- (1) the state board of finance, notwithstanding IC 4-9.1-1-7, IC 4-13-2-23, or any other law; or**
- (2) the budget agency, notwithstanding IC 4-12-1-12 or any other law.**

**SECTION 9. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 6-1.1-1, IC 6-1.1-20.9, and IC 6-1.1-21 apply throughout this SECTION.**

**(b) A taxpayer that is eligible for a homestead credit under IC 6-1.1-20.9 in 2006 is eligible for an additional child welfare relief credit under this SECTION in 2006. The amount of the additional child welfare relief credit to which the taxpayer is entitled equals the product of:**

- (1) twelve percent (12%); multiplied by**
- (2) the amount of the individual's property tax liability, as that term is defined in IC 6-1.1-21-5, that is:**
  - (A) attributable to the homestead during the particular calendar year; and**
  - (B) determined after the application of the property tax replacement credit under IC 6-1.1-21.**

**(c) A county auditor:**

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(1) may apply the entire amount of the additional child welfare relief credit granted by this SECTION equally to all installments of property taxes first due from the taxpayer in 2006; or

(2) if application of the credit to the first installment would delay the delivery of tax statements more than thirty (30) days after the date that the tax statements would otherwise be mailed or transmitted, may issue revised tax statements and apply the entire credit to the property tax due in a later installment.

IC 6-1.1-22.5-6 does not apply if the county auditor elects to proceed under subdivision (2). The department of local government finance may prescribe procedures to apply the additional child welfare relief credit to tax statements. A county auditor shall comply with the procedures prescribed under this subsection.

(d) The property tax replacement fund board shall provide for an additional distribution to taxing units from the property tax replacement fund to replace revenue lost to a county as the result of the granting of additional child welfare relief credits under this SECTION. The distribution shall be made on the schedule determined by the property tax replacement fund board. To the extent possible, the property tax replacement fund board shall make distributions under this subsection at the same time distributions of homestead credits and other property tax replacement credits are made. A distribution under this subsection is not subject to any law limiting the maximum amount that may be distributed under IC 6-1.1-21. The amount distributed under this subsection is not included in the amount used to determine the minimum amount that must be distributed or maximum distribution that may not be exceeded under IC 6-1.1-21.

(e) This subsection applies to a taxpayer in an allocation area that would be eligible for an additional credit under any of the following:

- (1) IC 8-22-3.5-10.
- (2) IC 36-7-14-39.
- (3) IC 36-7-14-39.5.
- (4) IC 36-7-15.1-26.5.
- (5) IC 36-7-15.1-35.
- (6) IC 36-7-15.1-56.
- (7) IC 36-7-30-25.
- (8) IC 36-7-30-27.



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(9) IC 36-7-30.5-30.

(10) IC 36-7-30.5-32.

(11) IC 36-7-32-18.

As used in this subsection, "designating body" refers to the governing body permitted to reduce an additional credit otherwise granted in an allocation area to which a provision described in subdivisions (1) through (8) applies. Subject to this subsection, a taxpayer that is entitled to an additional credit on the taxpayer's homestead in an allocation area is entitled to a supplemental credit under this subsection. The amount of the supplemental credit is equal to the amount necessary to give the taxpayer the same total credit that the taxpayer would have received if the taxpayer's tangible property were not located in an allocation area. The supplemental credit reduces the amount of proceeds allocated to the district where the allocation area is located and paid into an allocation fund. A designating body may reduce the amount of the supplemental credits granted in an allocation area in the same manner and for the same reasons that the designating body is permitted to reduce an additional credit in the allocation area. The department of local government finance may prescribe procedures to use to apply a supplemental credit to tangible property in an allocation area. A county auditor shall comply with the procedures prescribed under this subsection.

(f) This SECTION expires January 1, 2007.

SECTION 10. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "taxable year" has the meaning set forth in IC 6-3-1-16.

(b) IC 6-3-2-20, as added by this act, applies only to taxable years beginning after June 30, 2006.

(c) The addition of IC 6-3-2-20, as added by this act, does not affect the legitimacy or illegitimacy of deductions claimed by taxpayers for taxable years beginning before July 1, 2006. Any determination of:

(1) the department of state revenue; or

(2) a court reviewing a department of state revenue determination;

of the legitimacy or illegitimacy of deductions claimed by taxpayers for taxable years beginning before July 1, 2006, shall be made without regard to IC 6-3-2-20, as added by this act.

(d) The department of state revenue may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to implement IC 6-3-2-20, as added by this act, and

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**IC 6-3-1-3.5, as amended by this act. A temporary rule adopted under this SECTION expires on the earliest of the following:**

- (1) The date a rule is adopted by the department of state revenue under IC 4-22-2 that repeals, amends, or supersedes the temporary rule.**
- (2) The date another temporary rule is adopted under this SECTION that repeals, amends, or supersedes a previously adopted temporary rule.**
- (3) The date specified in the temporary rule.**
- (4) July 1, 2007.**

**SECTION 11. An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 345 as reprinted January 31, 2006.)

ESPICH, Chair

Committee Vote: yeas 22, nays 0.

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